IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

THURSDAY, THE 19TH OCTOBER 2006 / 27TH ASWINA 1928

Bail Appl..No. 6219 of 2006()

CASE NO.R.C.-27(A)/2005.K.E.R. OF THE CENTRAL BUREAU OF INVESTIGATION, COCHIN

PETITIONER/10TH ACCUSED:

M. GOPALAN, S/O. POKKAN,
AGED 57 YEARS, RESIDING AT T.C.31/2357, H-2,
THAMARAKULAM LANE, SASTHAMANGALAM P.O.,TRIVANDRUM.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS: COMPLAINANT:

THE INSPECTOR OF POLICE,
CENTRAL BUREAU OF INVESTIGATION, OFFICE OF THE SUPERINTENDENT OF POLICE, CENTRAL BUREAU OF INVESTIGATION, KERALA BRANCH, KOCHI-17,
REPRESENTED BY THE STANDING COUNSEL FOR CBI,
HIGH COURT OF KERALA, ERNAKULAM.

BY SRI.S.SREEKUMAR, STANDING COUNSEL FOR C.B.I.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/10/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.M.JAMES, J.

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B.A. No. 6219 of 2006

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Dated this the 19th day of October, 2006

O R D E R

The petitioner is the tenth accused in Case No.R.C.-27 (A)/2005 of K.E.R of the Central Bureau of Investigation, Cochin, wherein, 12 accused persons are facing the allegation for the offence punishable under Sections 120B, 381, 401, 409, 411, 420, 468 and 471 I.P.C., read with Section 34 of the Indian Penal Code and, also under Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988.

2. It is alleged by the prosecution that the accused have conspired to give a contract of printing of question papers for the S.S.L.C examinations and other examinations, of the year 2002 March and subsequent two years, to the third accused, Rajan Chacko, who is doing the printing work at Chennai, in the press of seventh accused. Both, accused No.3 and a person by name, Kundu, from West Bengal, had offered to print question papers, required for conducting examinations by the D.P.I. As

per the communication dated 11/10/2001, 3rd accused, gave an offer to print question papers, for an amount of Rs.105.45 lakhs. Whereas, the Calcutta printer gave an offer of Rs.106 lakhs. The authorities felt that the amount offered by both the persons were comparatively high. Therefore, they invited both of them for a negotiation. Accordingly, a fresh estimate had been called from both of them. The 3rd accused gave a communication dated 07/11/2001, informing that, he would print the question papers of March 2002 S.S.L.C examinations alone, for an amount of Rs.64 lakhs. Whereas, the Calcutta printer gave an offer of Rs.93 lakhs, not only for the March 2002 S.S.L.C examinations, but also for all the examinations conducted by the D.P.I., which is numbering between 32 to 36 of that year.

3. The printing of question papers was taken up by the D.P.I and the connected correspondence file is produced before me. The perusal of the same show that on the suggestion of the 8th accused, it was resolved to constitute a panel of persons to scrutinize the amount to be spent for printing the question papers, in the year 2002 March. Accordingly, the then D.P.I., minuted that accused Nos.10, 11 and 8 be “authorised to negotiate with the printers, for getting lower rate, without compromising on quality and for delivery of materials at

Pariksha Bhavan, instead of the present practice of taking charge of them, at the press."

4. Accordingly, on 07/11/2001, as decided by the panel of three persons, 9th accused, the Superintendent, was directed to calculate the amount and put up the file. The details show that, the 9th accused made calculations which had been accepted by the panel of all the three persons, including the petitioner herein. It was thereafter, that the quotation offered by the 3rd accused was accepted.

5. The contention of the counsel for the petitioner is that, the 3rd accused being not proficient enough in Arithmetics, had accepted the calculations made by the 9th accused and, as approved by the other two panel members. Except acting with the bona fide intentions, the petitioner has got no mala fides and he also did not receive any gratification from the 3rd accused. The further submission of the counsel is that he would be available for interrogation and there is no allegation of any illegal actions against him, made by any of the accused arrested and questioned. Therefore, prayed that the arrest of the petitioner may be averted.

6. The learned Standing Counsel for the C.B.I on the other hand, relying on all the materials placed before me,

particularly those discussed in the earlier paragraphs and also the investigation records, which has also been submitted before me, contended that the interrogation of the petitioner is necessary. The counsel also submitted that the other accused had given many materials which requires verifications, directly from the petitioner, the tenth accused.

7. I have perused the disclosure statements made by accused Nos.9 and 8. I am not entering into any discussions or arriving at any conclusions on merit, for the bail court is not expected of the same. However, the Court has to be prima facie satisfied of the allegations made through the materials available on records, as produced by either side.

8. On perusal of the entire records, that are available before me, I am satisfied that the interrogation of the petitioner, the tenth accused, is necessary. As discussed above, how the panel of three persons, had accepted the offer of

3rd accused for printing the question papers of S.S.L.C examination alone for the year 2002, with 64 lakhs rupees, reasonable and lowest in rate, than Rs.93 lakhs that had been offered by the Calcutta printer for printing the entire question papers of the year 2002 March, which is numbering from 32 to 36, are to be explained by the petitioner before the Investigating Officer, particularly, in the light of the disclosures made by the other accused, who had been questioned by the Investigating Officer.

9. In the above fact situation, I am not inclined to grant a pre-arrest order. Therefore, this application, preferred under Section 438 Cr.P.C, is rejected.

10. During the hearing, I have clarified from the learned counsel for the petitioner, whether the petitioner is intending to surrender before the court below. However, upon getting instructions from the petitioner, the counsel submitted that the petitioner is not intending to surrender before the Investigating Officer.

(J.M.JAMES)
Judge

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